IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.136 OF 2006

Ikrar Irshad Hussain Mirza
@ Mohammad Imran Babban. ...Petitioner.

Versus

The State of Maharashtra. ...Respondent.

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Mr.Khan Abdul Wahab with Ms.Noorseema Baig, Advocates for the Petitioner.
Mr.Rajesh More, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 21st April, 2007.

P.C.:

1. Heard the learned Advocate for the petitioner and the learned APP for the State.

2. Rule. By consent, Rule made returnable forthwith and heard finally.

3. The petitioner was facing prosecution in C.R.No.169 of 1991 of DCB CID. The said case pertains to C.R.No.111 of 1991 of MIDC police station. The said case pertains to Case No.163/P/1994 which was pending before the learned Additional C.M.M., 19th Court, Esplanade, Mumbai.

The learned Additional C.M.M., 19th Court, Esplanade, Mumbai convicted the petitioner under Sections 363, 384, 511 of IPC by judgment and order dated 23.2.2000.

4. Being aggrieved thereby, Criminal Appeal No.33 of 2000 was preferred by the petitioner before the Sessions Court. The learned Sessions Judge by judgment and order dated 9.8.2004 dismissed the said Appeal. I have perused the said order. It is seen that the petitioner and the Advocate were absent. No hearing was given to them. The learned Advocate for the petitioner states that in such case the matter may be remanded back so that it can be heard on merits.

5. The learned APP has no objection to the matter being remanded back and being heard on merits.

6. In this view of the matter, the judgment and order dated 9.8.2004 passed by the learned Additional Sessions Judge in Criminal Appeal No.33 of 2000 is set aside. The learned Sessions Judge shall hear the matter afresh and decide the same on merits without being influenced in any manner by the judgment and

order dated 9.8.2004. As the petitioner has been in jail for a considerable period of time, the learned Sessions Judge to dispose of the said appeal as expeditiously as possible. In addition thereto the petitioner is granted liberty to prefer an application for bail before the learned Sessions Judge which shall be heard and decided on merits.

7. Rule is made absolute accordingly. Revision stands disposed of.

(SMT.V.K.TAHILRAMANI,J.)